

SUMMARY REPORT DIGEST

CHICAGO POLICE DEPARTMENT

LOG NO

1033675

TYPE

CR

DATE OF REPORT

01-MAY-2013

INSTRUCTIONS: To be used in all cases that are to be classified as either EXONERATED, UNFOUNDED, NOT SUSTAINED, NO AFFIDAVIT, or in SUSTAINED cases where the Disciplinary Recommendation does not exceed Five (5) DAYS SUSPENSION.

TO: CHIEF ADMINISTRATOR, INDEPENDENT POLICE REVIEW AUTHORITY

FROM - INVESTIGATOR'S NAME	RANK	STAR NO	EMPLOYEE NO	UNIT ASSIGNED	UNIT DETAILED
GALINDO, MARGARITA	9183			113	

REFERENCE NOS.(LIST ALL RELATED C.L., C.B., I.R., INVENTORY NOS., ETC., PERTINENT OF THIS INVESTIGATION)

INCIDENT ADDRESS: 2337 E. 85TH ST, CHICAGO, IL 60617	DATE / TIME 22-JUN-2008 01:06	BEAT: 412
--	-------------------------------	-----------

ACCUSED

NAME	RANK	STAR NO	EMP NO	UNIT ASSIGNED	UNIT DETAILED	SEX/RACE	DOB	APPOINTED DATE	ON DUTY ?	SWORN ?
GROSS, DETRA L	9201	15582		277		F / BLK	1969	23-OCT-1995	YES	YES
BEMBYNISTA, JOSEPH	9201	15359		177		M / WHI	1949	14-DEC-1970	YES	YES
GAHAGAN, KATHLEEN L	9207	14346		277		F / WHI	1950	14-FEB-1983	YES	YES
JOHNSON, BRIAN M	9165	20948		620		M / WHI	1970	05-AUG-1996	YES	YES
FORBERG, BRIAN P	9165	21249		620		M / WHI	1960	10-JUL-1995	YES	YES

REPORTING PARTY

NAME	ADDRESS*	CITY STATE	TELEPHONE	SEX / RACE	DOB / AGE
GALINDO, MARGARITA	RANK: 9183, STAR NO: , EMP NO:			F / S	1977 / 36

VICTIMS

NAME	ADDRESS*	CITY STATE	TELEPHONE	SEX / RACE	DOB / AGE
		CHICAGO, IL		M / BLK	1971 / 42

WITNESSES

NAME	ADDRESS*	CITY STATE	TELEPHONE	SEX / RACE	DOB / AGE
------	----------	------------	-----------	------------	-----------

* IF CPD MEMBER, LIST RANK, STAR, EMPLOYEE NOS. IN ADDRESS, PAX/BELL IN TELEPHONE BOX.

ALLEGATIONS

See page 3.

SUMMARY

See Summary Report.

ATTACHMENTS

INVESTIGATIVE REPORTS - SUPPORTING ALLEGATIONS LIST ATTACHMENTS NUMBER	INVESTIGATIVE REPORTS - SUPPORTING ACCUSED MEMBERS(S) LIST ATTACHMENTS NUMBER:	PHYSICAL EVIDENCE LIST ATTACHMENTS NUMBERS:	TOTAL NUMBER OF ATTACHMENTS SUBMITTED WITH THIS FILE:
8	9-54		55

FINDINGS - RECOMMENDATIONS

Accused: FI Detra Gross, #15582, Unit 177/277
Allegations #1-3: Unfounded

Accused: FI Joseph Bembynista, #15359, Unit 177
Allegations #1-3: Unfounded

Accused: FI Kathleen Gahagan, #14346, Unit 177/277
Allegations #1-3: Unfounded

Accused: Detective Brian Johnson, #20948, Unit 620
Allegation: #1-2: Unfounded

Accused: Detective Brian Forberg, #21249, Unit 620
Allegations #1-2: Unfounded

Approved:



IPRA Supervisor

DATE INITIATED
(Date incident was received for investigation)

08-FEB-2010

DATE COMPLETED (Date of this report)

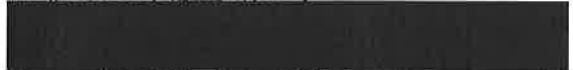
01-MAY-2013

ELAPSED TIME
(Total time expressed in days)

1178

Investigator will initiate the Command Channel Review form by
completing the Investigator's Section.

INVESTIGATOR'S SIGNATURE



IF NECESSARY, USE AN 8 1/2 x 11" SHEET OF WHITE PAPER TO CONTINUE ANY ITEM.

INDEPENDENT POLICE REVIEW AUTHORITY
LOG# 1033675

ALLEGATIONS:

On 05 Feb 10 at 1153 hours, IPRA Inv. Margarita Galindo #135, registered the complaint.

It is alleged that on 22 Jun 08 between 0100-0400 hours, at 2337 E. 85th Street: **Forensic Investigator Detra Gross, #15582, Unit 177, Forensic Investigator Joseph Bembynista, #15359, Unit 177, and Forensic Investigator Kathleen Gahagan, #14346, Unit 177:**

1. observed and had knowledge of misconduct and failed to report it;
2. disturbed crime scene evidence/body of the deceased, [REDACTED]
3. and failed to inventory evidence.

It is further alleged that on 22 Jun 08 between 0100-0400 hours, at 23 [REDACTED] E. 85th Street: **Detective Brian Johnson, #20948, Unit 620 and Detective Brian Forberg, #21249, Unit 620:**

1. observed and had knowledge of misconduct and failed to report it;
2. disturbed crime scene evidence/body of the deceased, [REDACTED]

¹ Throughout the course of the investigation, [REDACTED] name was incorrectly written or stated as [REDACTED]. The correct name is [REDACTED] and will be written as such throughout the Summary Report.

INVESTIGATION:

While conducting the investigation of LOG# 1017558/U# 08-20, a police-involved shooting, **Evidence Technician photographs** of the crime scene depicted a menu on top of several phone books displayed on [REDACTED] deceased body. The part of the menu that was face-up displayed the wording, "We Deliver." Subsequent evidence technician photographs did not depict the phonebooks or menu on the body of [REDACTED] but did depict [REDACTED] clothing moved or re-arranged to show the various injuries to his body.² (Att. #4, 7).

The **Crime Scene Processing Report** indicates that the assigned Forensic Investigators were FI Detra Gross, Kathleen Gahagan, and Joseph Bembynista and the assigned Detectives were Det. Brian Johnson and Det. Brian Forberg. (Att. #5-7).

In a statement to IPRA on 07 Jun 11, **accused Forensic Investigator (FI) Detra Gross** stated that on the date of the incident she was working with FI Gahagan and FI Bembynista. FI Gross stated that her specific duties were to "plug in" or enter information in the computer for the crime scene processing reports for that crime scene. FI Gross explained that the Forensic Investigator's duties change from scene to scene, sometimes processing the crime scene evidence, videotaping/photographing the scene or compiling all of the evidence into a written report. FI Gross stated that upon arriving at the scene, FI Gahagan photographed and videotaped the scene as it appeared, without making any changes. FI Gross assisted FI Gahagan with lighting and positioning when necessary. When shown a photograph of the deceased, [REDACTED] FI Gross recalled the menu and phone books already on his body when the Forensic Investigators arrived. FI Gross did not recall who removed the phonebooks or menu from [REDACTED] body. In another Evidence Technician photograph where the phonebooks and menus were removed from [REDACTED] body, FI Gross stated that they were removed for the purposes of photographing [REDACTED] body and his wounds. FI Gross did not recall who removed the phonebooks or menu from [REDACTED] body or who assisted in moving the body for the purposes of photographing injuries. FI Gross did not know why the phone books and menu were not inventoried as part of the crime scene. FI Gross stated that generally a detective, preliminary scene officer or supervisor will inform the forensic investigator's that something is not part of the crime scene and that it does not need to be inventoried. FI Gross did not recall anyone at the scene placing the menu and phone books on [REDACTED] body or making a joke about the menu and phonebooks. (Att. # 9-16, 33).

In a statement to IPRA on 08 Jun 11, **accused Forensic Investigator Joseph Bembynista** stated that on the date of the incident he was working as his own unit,

² The involved officers were interviewed during the investigation of LOG# 1017558/U# 08-20. It was determined that only Lt. John Ryan, #377 actually entered the vestibule area and this was done immediately after the shooting in order to remove the guns that [REDACTED] had on his person so that [REDACTED] could not reach for them. For that reason the officers and Lt. Ryan were not accused and were not interviewed for this LOG# investigation.

INDEPENDENT POLICE REVIEW AUTHORITY
LOG# 1033675

separate from FI Gross and FI Gahagan. FI Bembynista stated he went to the Area for the purposes of retrieving the involved officer's weapons then went to the scene to plot or sketch the crime scene. FI Bembynista stated that he had no investigative responsibility at the scene. [REDACTED] body was no longer at the scene when he arrived and FI Bembynista never viewed it. FI Bembynista stated he was not tasked with any crime scene processing; denied any knowledge of misconduct; denied tampering with the crime scene; and denied failing to inventory any evidence (Att. #17-24, 34).

In a statement to IPRA on 10 Jun 11, **accused Forensic Investigator Kathleen Gahagan** stated that she was working with FI Gross and was assigned to process the crime scene at 23 [REDACTED] E. 85th Street. FI Gahagan stated that the procedure upon arriving at a crime scene is that two Forensic Investigators work together as a team and conduct a walk-through of the crime scene to get an idea of the physical evidence and its location. One investigator will then photograph the crime scene while the other catalogs the evidence into a computer. FI Gahagan stated that upon arriving at the incident, she learned the [REDACTED] had already been pronounced dead but was still on the scene. FI Gahagan began photographing the scene while FI Gross cataloged the crime scene evidence. FI Gahagan was shown the photographs of [REDACTED] with the phonebook and menu on his body and the photographs after they were removed from his body. FI Gahagan stated that the body of [REDACTED] had the phone book and menu on it when she arrived at the crime scene and she photographed it for that reason. FI Gahagan was not given an explanation or reason for the phone books and menu on [REDACTED] body. FI Gahagan stated that at some point the phone books and menu were removed from on top of [REDACTED] body for the purposes of photographing his wounds and aligning his wounds with his clothing. FI Gahagan did not remove the phone books and menu and did not know who removed them. The phone books were not considered physical evidence because they had not been used as a weapon by [REDACTED] or against [REDACTED] so they were not inventoried. FI Gahagan stated the assigned detectives on the scene decide what crime scene evidence is inventoried and the forensic investigators will then catalog and inventory the evidence. Based on the Crime Scene Processing Report the assigned detectives were Detectives Brian Johnson and Brian Forberg. FI Gahagan denied any knowledge of misconduct and stated she would have reported misconduct if she had observed or heard any; denied tampering with the crime scene; and denied failing to inventory any evidence. (Att. #25-32, 35).

Department reports including the Case Supplementary Report include the assigned Detectives names as well as the information pertaining to the police-involved shooting. (Att. #36).

In a statement to IPRA on 07 Sep 12, **accused Detective Brian Johnson** stated he was assigned to Area 2 Homicide, detective division, and investigated the police-involved shooting that occurred at 23 [REDACTED] E. 85th Street with his partner, Det. Brian Forberg. Det. Johnson stated upon arriving at the scene of a homicide he typically views the scene and surrounding area then will talk to an on-scene supervisor from the Patrol Division to get general idea of what occurred. Det. Johnson typically enters the inner

INDEPENDENT POLICE REVIEW AUTHORITY
LOG# 1033675

perimeter of the crime scene which he referred to as the inner sanctum of the crime scene where events occurred and where the evidence is. In this case, the inner perimeter, the vestibule, also contained [REDACTED] body. Det. Johnson stated that he when arrived at the crime scene, [REDACTED] body was lying in the vestibule. To the best of Det. Johnson's recollection, [REDACTED] body did have the phone books and menu on top of it when he first observed it after arriving at the scene. Det. Johnson did not ask for or receive an explanation as to how or why the phonebooks or menu ended up on top of [REDACTED] body but stated he did not observe anyone place them on [REDACTED] body. Det. Johnson could not recall when the items were removed from on top of [REDACTED] body but stated that [REDACTED] body was moved for the purposes of photographing his injuries. The phonebooks and menu would have been removed from [REDACTED] body after initially photographing it as it originally was, with the phone books and menu. Det. Johnson stated the photographs are taken in order of how the scene looks originally and are continually taken as the scene is changed in order to document the changes being made for the purposes of the investigation. Det. Johnson stated that the most likely reason for the phonebooks and menu not being inventoried was that they did not have any evidentiary value and were not considered useful to the investigation. Det. Johnson denied observing and having knowledge of misconduct and failing to report it and disturbing the crime scene evidence/body of [REDACTED] (Att. 37-45).

In a statement to IPRA on 20 Feb 13, accused Detective Brian Forberg stated he was working third watch at Area 2. Det. Forberg was assigned to investigate the police-involved shooting that occurred at 23 [REDACTED] E. 85th Street. Upon arriving at the crime scene Det. Forberg sought out an officer or supervisor who could provide a synopsis of the incident and pertinent information. Det. Forberg stated that the phonebooks and menu were on top of [REDACTED] body when he arrived at the scene and did not recall if anyone there stated how they ended up on [REDACTED] body. Det. Forberg stated that the phone books and menu were most likely removed from [REDACTED] body for the purposes of photographing [REDACTED] injuries and clothing. Det. Forberg did not know when or who removed the phone books and menu as he did not observe when it was being done. Det. Forberg stated that the phone books and menu were not inventoried as they did not have any evidentiary value and the photographs that were taken of them were sufficient for the homicide investigation that was being conducted. Det. Forberg denied having knowledge of misconduct and failing to report it and disturbing the crime scene. (Att. #46-54).

INDEPENDENT POLICE REVIEW AUTHORITY
LOG# 1033675

CONCLUSION:

The R/I recommends a finding of **Unfounded** for **Allegations #1-3** against FI Detra Gross that she observed and had knowledge of misconduct and failed to report it, disturbed crime scene evidence/body of the deceased, [REDACTED] and failed to inventory evidence. There is no evidence to prove the allegations. The body of [REDACTED] already had the phone books and menu on it when the forensic investigators arrived at the crime scene. Forensic investigators Gross and Gahagan had no knowledge of how the items came to rest on [REDACTED] body. The forensic investigators are tasked with photographing and cataloguing the crime scene and physical evidence as instructed by detectives. FI Gross and Gahagan stated they were unaware of when the phone books and menu were removed from on top of [REDACTED] body but both stated those items were removed for the purposes of photographing the injuries to [REDACTED] body and [REDACTED] clothing, which is the process at a crime scene. Both forensic investigators denied observing or hearing any misconduct while at the crime scene. Additionally, forensic investigators do not determine what comprises evidentiary value at a crime scene; the determination is made by the assigned detectives. For these reasons the R/I recommends a finding of Unfounded for Allegations #1-3 against FI Gross.

The R/I recommends a finding of **Unfounded** for **Allegations #1-3** against FI Joseph Bembynista that he had knowledge of misconduct and failed to report it, disturbed crime scene evidence/body of the deceased, [REDACTED] and failed to inventory evidence. There is no evidence to support the allegations. FI Bembynista stated that he was initially sent to Area 2 to retrieve the weapons of the involved officers. FI Bembynista stated his only duty at 23 [REDACTED] E. 85th Street was to plat or draw a sketch of the crime scene. FI Bembynista stated that the body of [REDACTED] was no longer at the scene when he arrived and he never viewed it and therefore had no knowledge of the phone books or menu on the body of [REDACTED]. For these reasons, the R/I recommends a finding of Unfounded for Allegations #1-3 against FI Bembynista.

The R/I recommends a finding of **Unfounded** for **Allegations #1-3** against FI Kathleen Gahagan that she observed and had knowledge of misconduct and failed to report it, disturbed crime scene evidence/body of the deceased, [REDACTED] and failed to inventory evidence. There is no evidence to prove the allegations. The body of [REDACTED] already had the phone books and menu on it when the forensic investigators arrived at the crime scene. Forensic investigators Gross and Gahagan had no knowledge of how the items came to rest on [REDACTED] body. The forensic investigators are tasked with photographing and cataloguing the crime scene and physical evidence as instructed by detectives. FI Gross and Gahagan stated they were unaware of when the phone books and menu were removed from on top of [REDACTED] body but both stated those items were removed for the purposes of photographing the injuries to [REDACTED] body and [REDACTED] clothing, which is the process at a crime scene. Both forensic investigators denied observing or hearing any misconduct while at the crime scene. Additionally, forensic investigators do not determine what comprises evidentiary value at

INDEPENDENT POLICE REVIEW AUTHORITY
LOG# 1033675

a crime scene; the determination is made by the assigned detectives. For these reasons the R/I recommends a finding of Unfounded for Allegations #1-3 against FI Gahagan.

The R/I recommends a finding of **Unfounded** for **Allegations #1-2** against Det. Brian Johnson that he observed and had knowledge of misconduct and failed to report it and disturbed crime scene evidence/body of the deceased, [REDACTED]. There is no evidence to support the allegations. The detectives both stated that they had no knowledge of how the phonebooks and menu came to rest on [REDACTED] body. The items were already on the body of [REDACTED] when the assigned detectives arrived at the scene. Neither of the detectives observed the phonebooks or menu being removed from [REDACTED] body but stated that they were most likely removed for the purposes of photographing [REDACTED] injuries as well as his clothing. Neither detective could recall if he assisted in moving [REDACTED] body but stated that it would not be unusual for them to assist in moving a body at a crime scene for the purposes of photographing the body and that action is not considered disturbing crime scene evidence. The detectives stated that the phonebooks and menu were not inventoried because they offered no evidentiary value to the homicide investigation and photographing them was sufficient for the homicide investigation. Neither detective observed or heard any misconduct on behalf of other officers. For these reasons the R/I recommends a finding of Unfounded for Allegations #1-2 against Det. Brian Johnson.

The R/I recommends a finding of **Unfounded** for **Allegations #1-2** against Det. Brian Forberg that he observed and had knowledge of misconduct and failed to report it and disturbed crime scene evidence/body of the deceased, [REDACTED]. There is no evidence to support the allegations. The detectives both stated that they had no knowledge of how the phonebooks and menu came to rest on [REDACTED] body. The items were already on the body of [REDACTED] when the assigned detectives arrived at the scene. Neither of the detectives observed the phonebooks or menu being removed from [REDACTED] body but stated that they were most likely removed for the purposes of photographing [REDACTED] injuries as well as his clothing. Neither detective could recall if he assisted in moving [REDACTED] body but stated that it would not be unusual for them to assist in moving a body at a crime scene for the purposes of photographing the body and that action is not considered disturbing crime scene evidence. The detectives stated that the phonebooks and menu were not inventoried because they offered no evidentiary value to the homicide investigation and photographing them was sufficient for the homicide investigation. Neither detective observed or heard any misconduct on behalf of other officers. For these reasons the R/I recommends a finding of Unfounded for Allegations #1-2 against Det. Brian Forberg.

INDEPENDENT POLICE REVIEW AUTHORITY
LOG# 1033675

(Signatures Only)



Inv. Margarita Galindo #135

Approved:



IPRA Supervisor